
Appendix A

Analysis of Scoping Comments

Chucker's LodeExploration Project

Three letters specific to the project were received during the scoping period of October 5, 2010 to November 10, 2010. The letters were analyzed and an analysis code assigned to the comments (see Table 1).

Comment Analysis Codes

- 1: Outside the scope of the proposed action.
- 2: Already decided by law, regulation, Forest Plan, or other higher level of decision.
- 3: Irrelevant to the decision to be made.
- 4: Conjectural and not supported by scientific evidence.
- 5: General comment, suggestion, opinion, or position statement.
- 6: Other agency or partner's consultation, review, advice, recommendation(s), etc.
- 7: Already considered in the proposed action or is standard procedure.
- 8: Will be included in an analysis of effects to the environment.

Codes 1 – 6 are standard codes. Comments assigned to these codes are considered to be non-significant issues. Code 7 was added as a category for those suggestions that are already proposed or for procedures that are routinely done. Code 8 was added as a category for suggestions that will be analyzed for effects to the environment.

Table 1: Comment Analysis

Commenter	Comment	Disposition
Gary Mcfarlane Friends of the Clearwater	Water quality issues surrounding the exploration need to be evaluated. The proposal could apply "excess water" on the land. The concern is this is a discharge under the Clean Water Act and it requires a discharge permit (NPDES permit).	There would be no discharge into waters of the United States or wetlands, therefore it is not considered a discharge under the Clean Water Act.
	Even if pH is normal, the water could contain pollutants. This is important because the Fall Creek area is near the South Fork Clearwater, which contains listed fish species.	5
	Furthermore, where would the water come from for the drilling? That is an issue that needs to be addressed.	If process water comes from a source on National Forest lands, a water use permit from the Idaho Department of Water Resources would be required.
	The location of the test holes also needs to be addressed. Are they on the existing roadbed or elsewhere?	Test hole locations would be decided by the operator, but would be limited by conditions of the Plan of Operations.

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Gary Mcfarlane Friends of the Clearwater	The issue of claim validity is important. This type of work, if small (again, the scoping letter lacks detail), would seem to be more exploration previous to staking a claim. This is important because the reasonableness of the proposed action needs to be adequately considered.	1, 5
	Activity or facilities that are “reasonably incident” will vary depending on the stage of mining activity ... [which] include initial prospecting, advanced exploration, pre-development, and actual mining. Each stage is defined by an increasing level of data and detail that contribute to [the] probability that the deposit can be mined profitably. Each stage also has an increasing impact on the land.	5
	The logic of sequencing is also obvious to the Forest Service whose charge is the management of surface resources: Keep it small, to the extent practicable, and build, if warranted, from there. In other words, minimize the amount of disturbance to surface resources in order to prevent unnecessary destruction of the area, and to ensure to the extent feasible that disturbance is commensurate with each level of development.	5, 7
	That simple principle is of paramount interest to the Forest Service that, by its Organic Act, is responsible on lands in the National Forest System “to regulate their occupancy and use to preserve the forest thereon from destruction.”	5, 7
	...it is questionable whether the claimant has made the discovery of a “valuable mineral deposit” on this claim. (30 U.S.C. 22). A mining claim location does not give presumption of a discovery.	2
	The automatic assumption this is something that can be approved with a CE fails to take a hard look at the need for water during drilling, the possible discharge of water from the adit exploration, and the lack of information about [sic] the location of the proposed drilling holes.	2, 5
Jonathan Oppenheimer, Idaho Conservation League [ICL's comments included four placer exploration projects – Chucker's Lode, Max #2, Bear Track #2, and Imperial Creek.]	We feel the proposed mining exploration is subject to the order issued by the US District Court for the Eastern District of California in Case No. CIV F-03-6386JKS. Specifically, [the] District Court ordered that gathering geophysical data, trenching and clearing vegetation...in association with geophysical investigations were subject to notice, comment and appeal regulations pursuant to the Appeals Reform Act, Forest Service regulations and 36 CFR 215. In the scoping notice, the minerals exploration activities include ... activities [that] would appear to fall within the categories outlined in the Singleton Decision. As such, we encourage you to reconsider scoping these projects pursuant to 36 CFR 215.	The issue is moot since: Section 431 of the Consolidated Appropriations Act of 2014 removed the post-decisional appeals (36 CFR 215) process for projects categorically excluded from an EA or EIS. Section 8006(a) of the 2014 Farm Bill repealed the Appeals Reform Act.

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<p>Jonathan Oppenheimer, Idaho Conservation League</p> <p>[ICL's comments included four placer exploration projects – Chucker's Lode, Max #2, Bear Track #2, and Imperial Creek.]</p>	Although the 1872 Mining Law establishes a legal framework for mineral location and entry on public lands, the Forest Service is not obligated to approve plans of operations if it does not fulfill the requirements of all other applicable laws and regulations.	7
	The Forest Service needs to substantiate the validity of all associated claims. An objective validity analysis, including a marketability and prudent person test, needs to be performed...	1
	The Forest Service must submit a biological assessment on all possible threats to listed species, including lynx, bull trout, Steelhead trout and any other listed species ... [and] must consult with the USFWS and NOAA - Fisheries. No incidental take permits should be authorized in association with these projects.	7, 8
	The Forest Service needs to describe, avoid, and mitigate potential impacts on lynx and wolverine. We are concerned ... human activity, particularly with regard to the continual noise from drilling operations, will displace these species or prevent them from using these areas as corridors.	7, 8
	As such, we encourage the Forest Service to limit the number of entries to the minimum needed and to only allow one drill pad to be operated at a time.	As only one drill would be available, only one pad would be in operation at any one time. The drill is a small backpack-sized drill so surface disturbance would be expected to be minimal.
	We appreciate that none of the proposed activities occur within a Riparian Habitat Conservation Area. At the same time, the scoping notice indicated that all projects would be "appropriately" buffered by at least 20 feet from streams or wetlands. It is unclear how a 20 foot buffer was determined to be appropriate.	The 20 foot buffer would be the absolute minimum considered for <i>all</i> situations. Buffer width would be adjusted as appropriate for a given situation.
	If monitoring indicates that 20 foot buffers are adequate to protect water resources, All [sic] operations must comply with the protective standards and regulations stated in the Forest Plan concerning mining, road construction, and tree removal. No Forest Plan amendments should be permitted.	7
	It appears from the maps and project descriptions that activities will occur within RHCAs.	None of Chucker's Lode project's activities are proposed in RHCAs.
	Such mining and its effects on T,E and S species represents and [sic] extraordinary circumstance and an EA must be prepared.	2, 5, 8
	Further, the project analysis must consider Riparian Management Objectives and how they will be maintained and restored following project activities.	7, 8

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<p>Jonathan Oppenheimer, Idaho Conservation League</p> <p>[ICL's comments included four placer exploration projects – Chucker's Lode, Max #2, Bear Track #2, and Imperial Creek.]</p>	All fuel and solvents need to be properly contained, labeled, and stored outside of [RHCAs].	7
	Hazardous materials should be transported in small amounts to minimize impacts if there is a spill.	A fuel spill prevention plan will be required as a condition of the Plan of Operation approval.
	A hazardous material plan needs to be in place in the event of a fuel or solvent leak anywhere along the transportation route.	
	Hazardous wastes including grease, lubricants, oil, and fuels need to be disposed off-site in an environmentally appropriate manner on a weekly basis.	7
	Fuel containment equipment, including chemical absorbers and booms to intercept stream transport need to be on site. All workers need to be trained in the use of this equipment.	1
	Monitoring should be conducted at weekly intervals throughout the mining operation and throughout reclamation.	5
	The Forest Service should establish noise limits such that disturbance to surrounding wildlife is minimized and require the operator to abide by these limits.	Noise levels would be equal to that of any other mechanized earth-moving equipment that normally operates on the Forest.
	All equipment should be cleaned to dislodge any soil, seeds, and vegetation before entering National Forest system property.	7
	Work crews trained in noxious weed recognition and removal should patrol the project area.	1
	Weeds or microtrash should be removed.	The project area would be monitored for noxious weeds and if found, appropriate measures taken for removal and control.
	If sumps are proposed for use, drilling operations should be suspended if the sump approaches capacity to allow infiltration to occur.	The size of the drill holes (1-1 ½") precludes the need for large quantities of water and therefore a sump would not be necessary.
	The designated water pumping location needs to minimize impacts on riparian vegetation and soil disturbance.	7
	The water pump needs to be properly lined with an impermeable liner to protect the soil from the full volume of diesel fuel or oil in case there is a leak.	A fuel spill prevention plan would be required as a condition of the Plan of Operation approval.
	The timing of water withdrawal should be defined to avoid impacts to aquatic organisms and T,E and S species.	8
	All drilling activities need to be conducted outside of Riparian Habitat Conservation Areas.	None of Chucker's Lode project's activities are proposed in RHCAs.

Commenter	Comment	Disposition
<p>Jonathan Oppenheimer, Idaho Conservation League</p> <p>[ICL's comments included four placer exploration projects – Chucker's Lode, Max #2, Bear Track #2, and Imperial Creek.]</p>	We recommend the use of directional drilling to reduce surface disturbances and minimize the number of drill pads.	Holes would be drilled to a maximum depth of 20'-30'. The design of the drilling equipment does not allow drilling at less than a 90° angle.
	Weed-free straw bales should line any drainages to protect streams from sedimentation and be removed upon completion of operations.	7
	If any drilling fluids contain any contaminants, sumps should be double lined and have a leak detection and removal system to prevent groundwater contamination.	No commercial drill fluids would be used, only water.
	The sump containers should be large enough to contain all contaminants as well as precipitation from 24-hour, 100 year rainfall events.	The size of drill holes (1-1 ½") precludes the need for large quantities of water and therefore sumps would not be necessary.
	The Forest Service should require the use of (BMPs)...in a manner that minimizes water quality impacts.	7
	<p>The [FS] should require additional mitigation measures for test holes near riparian areas. The information within the scoping notice was insufficient to demonstrate that 20 foot buffers adjacent to streams and wetlands [are] sufficient to meet the requirements pursuant to the Clean Water Act, PACFISH, and/o [sic] Idaho's Groundwater Rules.</p>	<p>The 20 foot buffer would be the absolute minimum considered for <i>all</i> situations. Buffer width would be adjusted as appropriate for a given situation.</p> <p>There would be no discharge of any materials into a stream or RHCA. The majority of the material would be carried offsite for further testing.</p> <p>Ensuring consistency with the Clean Water Act, PACFISH and/or Idaho's Groundwater Rules is standard procedure.</p>

Commenter	Comment	Disposition
<p>Jonathan Oppenheimer, Idaho Conservation League</p> <p>[ICL's comments included four placer exploration projects – Chucker's Lode, Max #2, Bear Track #2, and Imperial Creek.]</p>	<p>The effects of mining exploration activities on surface water and groundwater quantity and quality need to be determined for a full range of flow conditions. This geochemical analysis should include the following factors:</p> <ul style="list-style-type: none"> • sedimentation • transportation of hazardous or toxic materials • on-site water needs • source of water • the depth and flow of water table • drilling depth • the potential for chemicals and toxins to leach into surface and ground waters • water capture and subsequent leakage by sumps • waste water discharge from site • storm water runoff 	<ul style="list-style-type: none"> • Sedimentation from roads and trails would be monitored and mitigated as stipulated in the approved Plan of Operation. • Fuel and oil would be the only toxic materials on site. A spill prevention plan would be in place, per the Plan of Operation, before activities could begin. • Onsite water needs and sources were addressed in the Scoping notice. • A detailed analysis of water table depth and flow is beyond the scope of this project. A more detailed analysis would be conducted if full scale mining is proposed at a later time. • The maximum drill hole depth for this project is 30 ft. A drill hole of this size would have no significant effects on groundwater or surface water flow or quality. • No chemicals and/ or toxins would be discharged onsite. • No sumps would be used. • No water would be discharged from the open trenches or pits into the surrounding area. If required, excess water may be applied to upland areas. This would apply to excess storm water runoff as well.
	The Forest Service needs to specify whether mine operators will be living on or off-site.	Operators would be camping on National Forest lands intermittently during the operating period.
	All garbage must be disposed of appropriately in a timely fashion.	7
	To avoid contaminating the area with human feces, a portable toilet river-running style toilet should be located on the site and serviced regularly.	Sanitary facilities such as those referenced would be available and used at the site.
	To minimize impacts to recreationists and wildlife, operations should be limited to daylight hours and...	Activities would be expected to occur between the hours of 0600 in the morning to 2000 in the evening.

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<p>Jonathan Oppenheimer, Idaho Conservation League</p> <p>[ICL's comments included four placer exploration projects – Chucker's Lode, Max #2, Bear Track #2, and Imperial Creek.]</p>	...generators should be limited to campground hours	The operator would be required to adhere to the same standards as all other forest users regarding the use of generators.
	Regularly inspected fire extinguishers and shovels need to be placed in all vehicles.	Mining claimants and operators would be required to adhere to the same fire prevention and protection standards as all other forest users and equipment operators. As such, they would have all needed fire prevention equipment on site.
	To reduce risks of fires, all on-site burning should be conducted in a fire pan or fire ring. Only combustible materials should be placed within the fire ring.	
	Burning should not be allowed during moderate to high fire risk periods.	
	We are also concerned about recreational and wildlife impacts in terms of noise and site occupation.	Impacts from noise and human presence on recreationists and wildlife would be similar to that of other actions involving mechanized earth-moving equipment that normally operates on the Forest.
	Water pumping and drilling should be limited to daylight hours to reduce impacts on recreationists and wildlife.	Activities would be expected to occur between the hours of 0600 in the morning to 2000 in the evening
	All activities need to be completed within one year from issuance of the permit or the bond should be forfeited.	2, 7
	The Forest Service needs to analyze cumulative effects from past, current, and foreseeable mining, timber, or recreational activities in and around the project area.	7, 8
	The reclamation of the area must take place concurrently with the mining operationand...	7
	...return the site to a more natural condition than presently exists.	1, 5
	This bond should cover refilling all trenches, drill holes, stabilizing waste rock piles, lining and capping mining wastes, recontouring and revegetating the site, removing noxious weeds, and naturalizing the area.	A bond for the amount to cover <i>all</i> required reclamation costs would be calculated and be submitted by the operator before the Plan of Operations was approved and before work may begin.
	Only one drill hole should operate at one time.	Only one drill site would be in operation at any given time.
	Any topsoil or large woody debris should be salvaged and replaced following operations.	7
	We believe that additional obliteration of non-system roads and riparian restoration should be core components of any reclamation plan.	1
	Complete reclamation should occur as soon as possible after operations cease.	7

Additional Comments on the Chucker's Lode Exploration Project

The following comments were received post-scoping and are included in the project record.

Commenter	Comment	Disposition
Idaho Conservation League Supplemental Comments (The ICL supplemental comments include 26 small mining projects, including the Chucker's Lode Exploration project.)	[W]e feel strongly that an EA is required for each project based on the degree of, or uncertainty surrounding, extraordinary circumstances present for each project.	We have determined no extraordinary circumstances exist (36 CFR 220.6), and therefore the use of a CE is appropriate for each project.
	We also [have] concerns about whether each Project would comply with the Forest Plan, the Endangered Species Act, other laws and regulations.	7
	We believe it is improper for you to approve any of these 26 projects using Category 8 and must at a minimum prepare an EA for each project.	We have determined no extraordinary circumstances exist (36 CFR 220.6), and therefore the use of a CE is appropriate for each project.
	[T]he agency cannot utilize Category 8 ... the Ninth Circuit has held, an agency's decision to establish a category of actions that are excluded from full NEPA review can only be made with a full understanding of the significance of the impacts resulting from application of the category.	1, 2, 3, 5, 7, 8
	The Forest Service never performed a direct, indirect or cumulative impacts analysis (or any of the required ESA consultation and analysis) on Category 8 -- routine, short-term mining investigations and their incidental support activities -- and the related provisions in Chapter 30 of the Forest Service Handbook [re:] extraordinary circumstances.	1, 3, 5
	[B]ecause adoption of Category 8 and Chapter 30 violated NEPA and the ESA, the Forest cannot rely upon on those provisions for approval of the proposed exploration projects.	1, 2, 5
	[E]ven if Category 8 was properly adopted, we question whether you can use Category 8 to approve any of these 26 mineral exploration projects, because [they] are concentrated in three ranger districts and have potentially significant cumulative impacts on the human environment. Accordingly, Category 8 cannot be used to approve these projects.	2, 5, 8

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<p>Idaho Conservation League Supplemental Comments</p> <p>(The ICL supplemental comments include 26 small mining projects, including the Chucker's Lode Exploration project.)</p>	<p>Not only must you consider the cumulative impacts of [the] 26 Projects currently being considered for approval under Category 8 ... you must also consider the impacts of all projects previously approved using Category 8.</p> <p>Further-more, you must review any other past, present, or reason-ably foreseeable impacts in your cumulative impacts analysis for these projects, including but not limited to: road construction, timber management, minerals exploration and development, livestock management, travel management, wildfire, prescribed fire, or other activities.</p>	<p>Cumulative effects of the proposed activities will be analyzed. The scope of the cumulative effects analysis will be determined by the individual resource specialists.</p>